IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

SUMMONS FOR JUDGMENT NO. 900 OF 2004

IN

SUMMARY SUIT NO. 1935 OF 2004

Interiables Industries
Pvt. Ltd., .. Plaintiffs.

vs.

Dr. Morepen Laboratories
Ltd,. .. Defendants.

Mrs. Sujata Palav i/by Vijaykumar & Co.
for the plaintiffs.
Mr. Rateeq Peermohideen i/by Paras Kuhad
& Asso. for defendants.

CORAM : S.U. KAMDAR, J.
DATE : 10TH OCTOBER, 2005.

P.C.

. The suit is filed on four invoices and interest thereon. The claim in the suit is for Rs. 4,03,878.00 which is made up of principal amount of Rs. 3,00,000/- and Rs. 1,03,878/- as and by way of interest. The learned counsel for the defendants raised two contentions. Firstly it has been contended that this Court has no jurisdiction. The

averments made in para 14 of the plaint it has been mentioned that the payment under the invoices was due and payable in Mumbai. In fact it is not in dispute that the defendants have been issued cheques by HDFC Bank as due and payable in Mumbai. All material part of the transaction arose within the jurisdiction of this Court. The plaintiff has instituted the suit accordingly by obtaining leave under Clause 12 of the Letters Patent. The second contention raised is that in respect of the two of the invoices there were 10 cheques issued and admittedly nine cheques are encashed and one cheque is outstanding. The said cheque was dishonoured. But the plaintiff has satisfied the claim in respect of the nine of the cheques and one cheque amount is still outstanding as due and payable. It is the case of the defendants that the suit is not filed on the said dishonoured cheque. In my opinion, even if the suit is filed on the said one dishonoured cheque, it is permissible in law. Therefore there is no defence. However, with a view to give an opportunity to the defendant to defend the suit I direct the defendant to deposit a sum of Rs. 4 lacs in this Court within a period of four weeks from today failing which the plaintiff will be entitled to decree. The amount if so deposited, the Prothonotary and Senior Master is directed to deposit the same in a fixed deposit with any nationalised bank initially for a period of one year

and renew the same from time to time till further orders from this Court.

2. Suit transferred to the list of Commercial Causes. Written Statement or points of defence to be filed four weeks from the date of deposit. Affidavits list of documents to be filed within four weeks thereafter. Inspection within four weeks thereafter. Suit to be on Board of the learned Judge taking Commercial Causes.